

CASS COUNTY PLANNING COMMISSION AGENDA FOR February 26, 2009

Cass County Highway Department Conference Room
7:00 AM
1201 Main Avenue West, West Fargo, ND 5878

1. Call to Order
Establish Quorum of Members
Approve October 23, 2008 Minutes
2. Road Advisory Group Appointment
[Action]
3. Odegaard Subdivision (South ½, SW ¼, Section 33, Pleasant Township)
Minor Subdivision
Variance request
[Action requested]
4. Other business and citizen comment.
5. Adjournment

Additional copies of the agenda and Planning Commission materials are available on the Cass County Website:

http://www.casscountygov.com/departments/planning/Planning_Commission.htm

Planning Commissioners:
Please call Highway Department Secretary
at 298-2370 if you are unable to attend.

Persons with Disabilities needing accommodations should call 298-2370 prior to the meeting.

**CASS COUNTY PLANNING COMMISSION
OCTOBER 23, 2008**

1. MEETING TO ORDER

A meeting of the Cass County Planning Commission was called to order on October 23, 2008, at 7:00 AM in the Highway Department Conference Room, Cass County Highway Department with members present as follows: Ken Lougheed, Keith Monson, Todd Ellig, Vern Bennett, and Brad Wimmer. Lou Bennett, Mark Johnson and Chad Peterson were absent. Also present were Tim Solberg, County Planner and Keith Berndt, County Engineer.

2. MINUTES APPROVED

MOTION, passed

Mr. Monson and Mr. Ellig seconded that the minutes from the September 25, 2008, meeting be approved as written. Motion carried.

3. Ellington Subdivision – Final Plat

Minor Subdivision

Final plat approved with conditions

The plat for Ellington Subdivision was tabled at the last meeting. Mr. Solberg reviewed the final plat for Ellington Subdivision, a tract of land located in the NW¼ of Section 35 in Stanley Township, which was filed in the Cass County Planning Office by Dan Norwood and his consulting contractor Mark Nelson. The proposed subdivision is approximately 19 acres and would be divided into two lots for commercial development. The subdivision will use public sewer systems and Cass Rural Water. The plat is currently within Zone A of the Flood Insurance Rate Map, which does not have an established base flood elevation (BFE). The developer will be using the most recent Flood Insurance Study provided by Houston Engineering, which is set at approximately 911 feet. The buildings will be elevated 2½ feet above this established BFE.

The development is unable to meet the county density 1:40 restriction requirements and Mr. Solberg suggested the developer meet the requirements for urban infrastructure outlined in the county subdivision ordinance regarding: storm sewer system; public sanitary system; public water supply; buffer planting; functioning fire hydrants; paved access at or above BFE; utility lines be buried; and parking requirements for employees. Mr. Solberg said the employee parking lot will be paved but the other parking area will be crushed concrete as large equipment will be moved in and out of the area. He said it is not feasible for the entire 7 acres to be concrete or asphalt because it would be too costly and would not be consistent with the Subdivision Ordinance due to the large amount of impervious surface.

Mr. Solberg said the Southeast Cass Water Resource District submitted their comments which included that the area is subject to flooding and recommends buildings be elevated and drainage plans be considered. He said there will be a

rain garden in which the water drains into a swale and flows to the north. Mr. Ellig said the interstate right of way ditch will help the water flow north.

There was discussion about the buffer planting. Mr. Nelson was concerned about how future developments to the south may be affected during winter months by trees and shrubs planted as a buffer. Mr. Solberg believes if the trees are planted correctly and the correct species are used, it will allow snow to blow through the buffer and decrease snow drifts on either side of the buffer.

Mr. Ellig said Stanley Township believes as long as the drainage issues are addressed, the subdivision is a good use of the land.

Mr. Solberg recommends approval of the plat subject to all conditions being met.

MOTION, passed

Mr. Ellig moved and Mr. Wimmer seconded to approve the final plat of Ellington Subdivision subject to the following conditions: 1) copy of title opinion per state statutes is submitted; 2) receipt of certified letter from Stanley Township of approval per zoning and floodplain regulations; 3) meet desires of the Planning Commission and review agencies; 4) provide a copy of North Dakota Department of Health Small Construction Permit; 5) secure appropriate financial guarantees for lot grading, buffer planting and access drive; 6) submit copies of completed certificates – Appendix 19 and 21. Discussion: Mr. Solberg asked about the tree buffer and board members agreed the buffer makes common sense and should be done. Motion carried.

4. NEXT MEETING

Due to the Thanksgiving and Christmas holidays, the next meeting will be held Thursday, December 11th at 7:00 AM.

5. ADJOURNMENT

MOTION, passed

On motion by Mr. Wimmer, seconded by Mr. Ellig, and all voting in favor, the meeting was adjourned at 7:30 AM.



MEMORANDUM

**Highway
Department**

Keith D. Berndt, P.E.
County Engineer

Richard S. Sieg
Superintendent

Thomas B. Soucy, P.E.
Design and Construction
Supervisor

TO: Cass County Planning Commission
FROM: Tim Solberg, County Planner
DATE: February 20, 2009
**SUBJECT: Planning Commission appointment to the
Road Advisory Committee**

The Cass County Commission requests that the term be renewed for appointment to the Road Advisory Committee. The Road Advisory Committee reviews proposed projects, approves annual construction plans and deals with a variety of other road policy issues. The appointment is a two year commitment and the Committee meets three times annually and other meetings as required. The current Planning Commission appointment is Mr. Mark Johnson.

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Staff Review – Odegaard Subdivision (Variance Request)

The Cass County Planning Office has received a request for a variance to lot density restrictions for a subdivision outlined in Section 307 of Cass County Subdivision Ordinance #2006-1. The potential subdivision is located in the South ½, SW¼, Section 33 of Pleasant Township. This parcel of land has previously been split for one lot and this subdivision would create an additional three buildable lots. Included in this packet is a letter from the developer, an area sketch plan from the developer, and highlighted portions of the Ordinance that directly pertain to this request. The developer is requesting action on the variance request prior to platting due to the cost of platting services. If the variance is acted upon the developer will apply to subdivide the property and the Planning Commission will hold a public hearing and decide upon the subdivision at a future date.

Applicant: Tom and Bonnie Odegaard (Randy Cramer of Property Resources Group)

Phone: (701) 428-3215 (Odegaard's) (701) 306-5419 (Randy Cramer)

Background and Analysis

I have included Section 307 of the Ordinance in your packet for review which explains the purpose of the County "lot density restrictions", and outlines the regulations. The Ordinance is clear in regards to lot density requirements for subdivision development; one development right per ¼, ¼ section or government lot. This parcel would equal a ½, ¼ section, thereby it holds two development rights. Because there is already an existing dwelling on the ½, ¼ section one development right is already used, thereby leaving only one development right available. Per our ordinance the developer is then allowed to subdivide one additional buildable lot from this parcel.

I have also included Section 305 and 904 which outline the procedure for requesting a variance and the intent of granting a variance. It should be noted that if the developer cannot provide facts of unreasonableness or hardship by which the restrictions are creating for him/her or if they are unable to prove that the alternative approach they seek will provide equal or better results then staff would interpret it to be that the Planning Commission should not grant the variance.

Recommendation

Staff recommends two options to the Planning Commission for consideration:

Deny the request for variance:

- A variance from the density requirements set forth by Subdivision Ordinance #2006-1 which implements goals of the Cass County Comprehensive Plan would set a negative precedent which may open the door to future requests to the Planning Commission thereby negating the goals and objectives set forth by the Comprehensive Plan.

Accept the request for variance:

- If the developer is able to sufficiently prove that the requirements of Subdivision Ordinance #2006-1 create hardship or are unreasonable in restricting his development, or if he can provide equal or better results, then staff would not recommend against granting the variance. Staff would however, recommend that these facts are well documented to provide for future requests that do not meet equal criteria.

Request for Variance on Zoning

To: Cass County Panning Commission

Date: February 20, 2009

Please accept this letter as a formal request for variance in regards to lot density restrictions on a possible rural minor subdivision. The proposed subdivision is located on the southwestern portion of Section 33 in Pleasant Township and the owner of record is Bonnie Odegaard. (see attached sketch)

Because of the terrain of the land mentioned, we believe the highest and best use of the land would be to provide a small number of rural residential lots. Our tentative sketch shows a request for 3 lots with lot 1 taking advantage of rolling hills, which are currently only used for haying, and carving out a small portion of tillable land on the north side where a house could be built on high ground outside of the power line easement. Access to this proposed lot already exists off of the township road. This lot would be approximately 12 acres in size.

Lots 2 and 3 would run along the east side of a natural ravine providing a beautiful country setting for a couple of homes. These lots would be approximately 5 to 7 acres in size each and would carve into a little more tillable land than lot 1. Access would be off of Highway 46 where an approach already exists.

All 3 lots would be substantially larger than the minimum 3 acres currently required by Pleasant Township. Please note that we are willing to move the proposed lot lines if necessary based on the new floodplain lines being proposed by FEMA. Bob Staloch is currently reviewing this for us.

It is our belief that allowing this variance will provide for an opportunity to provide additional tax revenue to the township and county while presenting no additional expense to either. Access already exists and all drives and infrastructure will be private. Without a lot density variance, the requirements of urban infrastructure would be too costly to consider the development of these lots. The distance to Kindred, Horace or Hickson/Oxbow is too great to consider connecting to any of them.

We thank you for your consideration of this request and look forward to the opportunity to discuss it further and to answer any questions the commission might have.

Respectfully submitted,

Tom and Bonnie Odegaard

Area Sketch Plan

